

## Surface Mining Reclamation and Enforcement, Interior

## § 706.4

employees from having any direct or indirect financial interest in underground or surface coal mining operations. The regulations of this part are applicable to Federal employees as defined in § 706.3.

### § 706.2 Objectives.

The objectives of this part are:

(a) To ensure that affected Federal agencies adopt a standard program for implementing the provisions in section 201(f) of the Act.

(b) To establish methods which will ensure, as required by section 201(f) of the Act, that each Federal employee who performs any function or duty under the Act does not have a direct or indirect financial interest in an underground or surface coal mining operation.

(c) To establish the methods by which the monitoring, enforcing and reporting responsibilities of the Director and the Secretary of the Interior under section 201(f) will be accomplished.

### § 706.3 Definitions.

*Act.* Means the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87.

*Coal mining operation.* Means the business of developing, producing, preparing or loading bituminous coal, sub-bituminous coal, anthracite or lignite or of reclaiming the areas upon which such activities occur.

*Direct financial interest.* Means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property and other financial relationships.

*Director.* Means the Director or Acting Director of the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

*Employee.* Means any person employed by the Office of Surface Mining Reclamation and Enforcement within the U.S. Department of the Interior and any other person employed by the Federal Government who performs

functions or duties under the Act without regard to the duration or nature of his or her appointment.

*Indirect financial interest.* Means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including inlaws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's functions or duties and the coal mining operation in which the spouse, minor children or other resident relatives hold a financial interest.

*Office.* Means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

*Other Federal agency.* Means any executive Federal agency or office or part thereof not a part of the U.S. Department of the Interior, and includes but is not limited to, the following agencies: The Department of Agriculture, the Department of Justice, the Corps of Engineers, the Environmental Protection Agency, the Council on Environmental Quality and the Energy Research and Development Administration.

*Performing any function or duty under this act.* Means those decisions or actions, which if performed or not performed by an employee, affect the programs under the Act.

*Prohibited financial interest.* Means any direct or indirect financial interest in any coal mining operation.

*Secretary.* Means the Secretary of the Interior.

### § 706.4 Authority.

(a) The Director is authorized by Pub. L. 95-87 to:

(1) Establish the methods by which the provisions in section 201(f) of the Act will be monitored and enforced;

(2) Establish appropriate provisions for all employees who perform any function or duty under the Act to file a statement and supplements thereto concerning their financial interests which may be affected by section 201(f); and

(3) Report annually to the Congress on the actions taken and not taken

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during the preceding calendar year under section 201(f) of the Act.

(b) Other Federal agencies with employees who perform functions or duties under the Act may adopt financial interest regulations pursuant to the Act which are consistent with the requirements in this part. If any such agency does not adopt regulations pursuant to this part, that agency shall enter into a memorandum of understanding with the Director, to have the employees of that agency who perform functions or duties under the Act file their statements with the Director. The Director will review statements filed with him or her, applying the regulations of the Department of the Interior. Where the Director determines that remedial action is necessary, he or she will refer the case to the employing agency with a recommendation as to the action to be taken.

(c) The Office of Inspector General within the U.S. Department of the Interior, will conduct periodic audits of Interior's compliance with the provisions contained in section 201(f) of the Act and the provisions of this part. The Office of Inspector General will arrange for such periodic audits of other Federal agencies to be performed by the audit unit of each such agency. The audits will be conducted on a cyclical basis or upon request of the Secretary of the Interior or the Director. Copies of all audit reports and related responses on corrective actions will be provided to the Director.

[42 FR 56060, Oct. 20, 1977, as amended at 56 FR 46988, Sept. 17, 1991]

### § 706.5 Responsibility.

(a) The Director, the Head of each other Federal agency, and the Head of each other bureau or office within the U.S. Department of the Interior, have the following common responsibilities concerning employees within their organizations performing any functions or duties under the Act, and shall:

(1) Provide advice, assistance and counseling to employees concerning financial interest matters related to the Act;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each employee to determine if the employee

has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in an underground or surface coal mining operation;

(3) Certify on each statement that review has been made, that prohibited financial interests if any, have been resolved, and that no other prohibited interests have been identified from the statement;

(4) Resolve prohibited financial interest situations by promptly notifying and ordering the employee to take remedial action within 90 days, or by initiating action to impose the penalties of the Act;

(5) Furnish a blank statement by December 15 of each year to each employee required to file a statement within his or her employing organization; and

(6) Inform annually each employee required to file a statement within his or her employing organization of the name, address, and telephone number of the person whom they may contact for advice and counseling.

(b) In addition to the common responsibilities in paragraph (a) of this section the Director shall:

(1) Monitor the program by using reports requested from the Heads of other Federal agencies, from the Heads of other bureaus and offices within the U.S. Department of the Interior, and by using periodic audits performed by the Office of Inspector General, U.S. Department of the Interior and by other Federal agencies;

(2) Prepare for the Secretary a consolidated report to the Congress as part of the annual report submitted under section 706 of the Act, on the actions taken and not taken during the preceding calendar year under section 201(f);

(3) Refer recommendations to officials of other Federal agencies concerning those cases requiring remedial action for employees of the other Federal agency who filed with the Director because that other Federal agency did not choose to adopt its own financial interest regulations pursuant to the Act.

(4) Report to the Solicitor, U.S. Department of the Interior, through the